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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,770	07/02/2003	Todd McNulty	Bench	7153
23217	7590	08/14/2006	EXAMINER	
GLENN L. WEBB P.O BOX 951 CONIFER, CO 80433			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/613,770	Applicant(s) MCNULTY ET AL.	
	Examiner Andrea M. Valenti	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said perforations" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-7 are rejected as being dependent upon a rejected base claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 20001566U to Lanz in view of U.S. Patent No. 6,178,691 to Caron et al.

Regarding Claims 1 and 14, Lanz teaches a self watering system and method for plant displays, wherein said system comprises a display support structure (Lanz #1); a top on said display support structure; said top having side panels and a bottom having a water tight connection; a reservoir (Lanz #4) placed in said top between said side

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panels; said reservoir capable of supporting plants without submersing said plants in Water (Lanz English title); and a capillary mat placed on top of said reservoir (Lanz #2).

Lanz is silent on explicitly teaching how the water gets to the water reservoir i.e. a water supply for providing water in said reservoir. However, Caron teaches a self watering system for plant displays with a water supply (Caron #21). It would have been obvious to one of ordinary skill in the art to modify the teachings of Lanz with the teachings of Caron at the time of the invention for the labor efficient advantage of efficient watering for a large facility.

Regarding Claims 2, 8 and 15, Lanz as modified teaches said reservoir includes: a plurality of perforations forming a honeycomb material for containing water (Lanz #5).

Regarding Claims 3 and 9, Lanz as modified teaches said reservoir includes: a thickness sufficient to prevent said capillary mat from being submersed in the water (Lanz #2).

Regarding Claims 4 and 10, Lanz as modified teaches wherein said capillary mat includes: a material for the plants to sit upon while wicking water from said reservoir to the root structure of the plants (Lanz #2).

Claims 5, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 20001566U to Lanz in view of U.S. Patent No. 6,178,691 to Caron et al as applied to claims 1, 8 and 14 above, and further in view of U.S. Patent No. 4,428,151 to Solomon.

Regarding Claims 5, 11 and 17, Lanz teaches said capillary mat includes: a material formed from a barrier fabric for the plants to sit upon while wicking water from said reservoir to the root structure of the plants (Lanz #2). Lanz is silent on the capillary mat is explicitly a woven barrier fabric. However, Solomon teaches a capillary mat of woven fabric (Solomon Col. 2 line 40-43). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Lanz with the teachings of Solomon at the time of the invention to make it more wear resistant as taught by Lanz.

Claims 6, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 20001566U to Lanz in view of U.S. Patent No. 6,178,691 to Caron et al as applied to claims 1, 8 and 14 above, and further in view of U.S. Patent No. 5,209,015 to Filippi.

Regarding Claim 6, 12 and 16, Lanz as modified teaches wherein said water supply includes: at least one water supply pipe extending along one side of said top, but is silent on it having a series of spaced perforations for providing water evenly to said reservoir. However, Filippi teaches a water supply with a series of spaced perforation (Filippi Fig. 4 #19). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Lanz with the teachings of Filippi at the time of the invention since the modification is merely an engineering design choice involving the selection of a known alternate equivalent irrigation means selected to prevent root rot and to promote healthy plant development and for a more comprehensive distribution of water to a larger area of plants.

Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 20001566U to Lanz in view of U.S. Patent No. 6,178,691 to Caron et al as applied to claims 1 and 8 above, and further in view of United Kingdom Patent GB 2018117 A to Marrison.

Regarding Claim 7 and 13, Lanz as modified is silent on wherein said system includes: at least one stand pipe *for allowing said top to drain to prevent overfilling* (functional language structure must merely be capable of performing this function). However, Marrison teaches a stand pipe in a self watering plant display system (Marrison #12). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Lanz with the teachings of Marrison at the time of the invention for ergonomic ease of adding a specific concentration of nutrients and fertilizer to the system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


United Kingdom Patent GB 2281182A; PCT WO 00/49854; United Kingdom Patent GB 1581228; PCT WO 00/25573; German Patent DE 3502296 A1; U.S. Patent No. 4,287,682; U.S. Patent Pub. No. US 2005/0268552; U.S. Patent No. 5,247,762; U.S. Patent No. 4,001,968; U.S. Patent No. 4,276,720; U.S. Patent No. 4,955,158; U.S. Patent No. 4,807,394; PCT WO 2004/056172A1.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Andrea M. Valenti  
Primary Examiner  
Art Unit 3643

10 August 2006